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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) M-15239-1P US	
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>November 15, 2007</u> Signature <u>Tina Kavanagh</u></p> <p>Typed or printed name <u>Tina Kavanaugh</u></p>		Application Number 10/752,263	Filed January 5, 2004
		First Named Inventor William R. Rassman	
		Art Unit 3734	Examiner Victor X. Nguyen
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. <u>Reg. No. 52,094</u> Registration number _____</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>		<p><u>David A. Park</u> Signature David S. Park Typed or printed name 949-752-7040 Telephone number <u>November 15, 2007</u> Date</p>	
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): William R. Rassman; Jae Pak
Assignee: William R. Rassman
Title: Method and Apparatus For Transplanting a Hair Graft
Serial No.: 10/752,263 Filing Date: January 5, 2004
Examiner: Victor X. Nguyen Group Art Unit: 3734
Docket No.: M-15239-1P US Confirmation No.: 4042

Irvine, California
November 15, 2007

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

In response to the Final Office Action dated August 15, 2007, Applicants submit the following remarks and request a Pre-Appeal Brief Review of the final rejection in the above-identified application. No amendments are being filed with this Request. A Notice of Appeal is being concurrently filed with this Request. The review is requested for the reasons stated on the attached sheets.

REMARKS

Claims 13-24 and 30-40 are pending. The rejections of the claims are respectfully traversed in light of the following remarks, and reconsideration is requested.

Rejections Under 35 U.S.C. § 102(b)

Claims 13-24 and 30-40 are rejected under 35 U.S.C. § 102(b) as being anticipated by Greco et al. (U.S. Patent No. 5,352,194 hereinafter "Greco").

In rejecting the claims, the Examiner states in part that "Greco discloses in figure 1 . . . a housing that includes an actuator chamber 3 and a graft chamber 1 for housing a loaded hair graft or tissue, a vacuum source . . . coupled to the housing to provide suction through a movable rod 6 at the open distal end for drawing a hair graft into the graft chamber . . . and where the actuator includes a plunger or a piston 5 connected to the rod . . . and where the device further includes a spring 11 coupled to the piston, where the spring is capable of moving the end of the rod to the first position from the second position."

However, Greco discloses the following:

During operation, compressed air or another appropriate gas is supplied to three-way valve 4 to drive piston 5 in the forward direction (indicated by arrow A). . . . Rod 6, which is firmly attached to piston 5, moves forward driving guide plate 7 forward along guide rod 8 upon which guide plate 7 is slideably disposed. Cannula 2, which is firmly attached to guide plate 7 via cannula attachment means 9 and 10, is thereby driven forward. Upon reaching the desired stroke length, the compressed gas is vented from cylinder 3 via valve 4. Upon the resultant decrease in pressure, the force exerted by spring 11 returns piston 5 to its retracted position. Repeating this sequence of events results in the reciprocating motion required during liposuction. (Greco, col.5, lines 9-23; FIG. 1)

In the embodiment illustrated in FIG. 1, a vacuum means (not shown) such as a vacuum pump is preferably connected to cannula 2 at nozzle 22 via expandable, flexible tubing (not shown). In the concentric tube embodiment of FIG. 2, a vacuum means (not shown) is preferably connected to the distal end of inner tube 109 via expandable flexible tubing (not shown). (Greco, col.7, lines 53-59).

Thus, Greco discloses a liposuction apparatus (in a completely unrelated art from the present invention) in which compressed gas is used to drive piston 5, attached rod 6, and guide plate 7, thereby driving cannula 2, and spring 11 returns piston 5 to its initial position when the compressed gas is vented. Greco does not disclose or suggest that rod 6 is gas-permeable as this would actually hinder driving of guide plate 7. The compressed gas supplied to valve 4 is used to drive piston 5 which receives substantially all of the compressed gas. Then the cannula is driven with a reciprocating motion for liposuction and not to deliver a hair graft.

Applicants submit that the Examiner has made clear error in finding that Greco discloses a gas-permeable rod inside a housing or providing suction through the movable rod 6 at the open distal end for drawing a hair graft into the graft chamber. If rod 6 were gas-permeable and used for suction therethrough, suction would be against guide plate 7 and not at an open distal end. Accordingly, Applicants submit that there is no disclosure or suggestion in Greco of: (1) a movable rod for delivering a hair graft; or (2) a gas-permeable rod through which vacuum is applied.

In contrast, Claims 13 and 30 each recite "a gas-permeable rod inside the housing" and "a vacuum source operably coupled to the housing to provide suction through the gas-permeable rod and at the open distal end for drawing a hair graft into the hair graft chamber," in addition to other limitations. Claim 13 further recites "an actuator to move the end of the rod substantially flush with the open distal end so that the loaded hair graft is delivered to a scalp wound." Therefore, because Greco does not disclose or suggest all the limitations of Claims 13 and 30, Claims 13 and 30 are patentable over Greco.

Claims 14-16 and 19-24 are dependent upon Claim 13, and contain additional limitations that further distinguish them from Greco. Therefore, Claims 14-16 and 19-24 are allowable over Greco for at least the same reasons provided above with respect to Claim 13.

Claims 31-32 and 35-40 are dependent upon Claim 30, and contain additional limitations that further distinguish them from Greco. Therefore, Claims 31-32 and 35-40 are allowable over Greco for at least the same reasons provided above with respect to Claim 30.

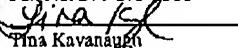
CONCLUSION

For the above reasons, Applicants believe pending Claims 13-24 and 30-40 are in condition for allowance and allowance of the Application is hereby solicited. If the Examiner should have any questions, please telephone Applicants' Attorney at (202) 333-4504.

Certificate of Transmission

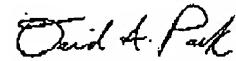
I hereby certify that this correspondence is being facsimile transmitted to the Commissioner for Patents on the date stated below.

Fax No. 571-273-8300


Tina Kavanaugh

November 15, 2007

Respectfully submitted,



David S. Park
Attorney for Applicant(s)
Reg. No. 52,094